



# House of Representatives

**File No. 673**

General Assembly

February Session, 2000

**(Reprint of File No. 465)**

Substitute House Bill No. 5707  
As Amended by House  
Amendment Schedule "A"

Approved by the Legislative Commissioner  
April 27, 2000

## ***An Act Concerning The Adoption Of Children From The Foster Care System.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17a-112 of the general statutes, as amended by  
2 section 4 of public act 99-166, is repealed and the following is  
3 substituted in lieu thereof:

4 (a) In respect to any child in the custody of the Commissioner of  
5 Children and Families in accordance with section 46b-129, either the  
6 commissioner, or the attorney who represented such child in a  
7 pending or prior proceeding, or an attorney appointed by the Superior  
8 Court on its own motion, or an attorney retained by such child after  
9 attaining the age of fourteen, may petition the court for the termination  
10 of parental rights with reference to such child. The petition shall be in  
11 the form and contain the information set forth in subsection (b) of  
12 section 45a-715, and be subject to the provisions of subsection (c) of  
13 said section. If a petition indicates that either or both parents consent  
14 to the termination of their parental rights, or if at any time following  
15 the filing of a petition and before the entry of a decree, a parent

16 consents to the termination of the parent's parental rights, each  
17 consenting parent shall acknowledge such consent on a form  
18 promulgated by the Office of the Chief Court Administrator  
19 evidencing that the parent has voluntarily and knowingly consented to  
20 the termination of such parental rights. No consent to termination by a  
21 mother shall be executed within forty-eight hours immediately after  
22 the birth of such mother's child. A parent who is a minor shall have the  
23 right to consent to termination of parental rights and such consent  
24 shall not be voidable by reason of such minority. A guardian ad litem  
25 shall be appointed by the court to assure that such minor parent is  
26 giving an informed and voluntary consent.

27 (b) Either or both birth parents and an intended adoptive parent  
28 may enter into a cooperative postadoption agreement regarding  
29 communication or contact between either or both birth parents and the  
30 adopted child. Such an agreement may be entered into if: (1) The child  
31 is in the custody of the Department of Children and Families; (2) an  
32 order terminating parental rights has not yet been entered; and (3)  
33 either or both birth parents agree to a voluntary termination of  
34 parental rights, including an agreement in a case which began as an  
35 involuntary termination of parental rights. The postadoption  
36 agreement shall be applicable only to a birth parent who is a party to  
37 the agreement. Such agreement shall be in addition to those under  
38 common law. Counsel for the child and any guardian ad litem for the  
39 child may be heard on the proposed cooperative postadoption  
40 agreement. There shall be no presumption of communication or  
41 contact between the birth parents and an intended adoptive parent in  
42 the absence of a cooperative postadoption agreement.

43 (c) If the Superior Court determines that the child's best interests  
44 will be served by postadoption communication or contact with either  
45 or both birth parents, the court shall so order, stating the nature and  
46 frequency of the communication or contact. A court may grant  
47 postadoption communication or contact privileges if: (1) Each intended  
48 adoptive parent consents to the granting of communication or contact  
49 privileges; (2) the intended adoptive parent and either or both birth

50 parents execute a cooperative agreement and file the agreement with  
51 the court; (3) consent to postadoption communication or contact is  
52 obtained from the child, if the child is at least twelve years of age; and  
53 (4) the cooperative postadoption agreement is approved by the court.

54 (d) A cooperative postadoption agreement shall contain the  
55 following: (1) An acknowledgement by either or both birth parents that  
56 the termination of parental rights and the adoption is irrevocable, even  
57 if the adoptive parents do not abide by the cooperative postadoption  
58 agreement; and (2) an acknowledgement by the adoptive parents that  
59 the agreement grants either or both birth parents the right to seek to  
60 enforce the cooperative postadoption agreement.

61 (e) The terms of a cooperative postadoption agreement may include  
62 the following: (1) Provision for communication between the child and  
63 either or both birth parents; (2) provision for future contact between  
64 either or both birth parents and the child or an adoptive parent; and (3)  
65 maintenance of medical history of either or both birth parents who is a  
66 party to the agreement.

67 (f) The order approving a cooperative postadoption agreement shall  
68 be made part of the final order terminating parental rights. The finality  
69 of the termination of parental rights and of the adoption shall not be  
70 affected by implementation of the provisions of the postadoption  
71 agreement. Such an agreement shall not affect the ability of the  
72 adoptive parents and the child to change their residence within or  
73 outside this state.

74 (g) A disagreement between the parties or litigation brought to  
75 enforce or modify the agreement shall not affect the validity of the  
76 termination of parental rights or the adoption and shall not serve as a  
77 basis for orders affecting the custody of the child. The court shall not  
78 act on a petition to change or enforce the agreement unless the  
79 petitioner had participated, or attempted to participate, in good faith  
80 in mediation or other appropriate dispute resolution proceedings to  
81 resolve the dispute and allocate any cost for such mediation or dispute

82 resolution proceedings.

83 (h) An adoptive parent, guardian ad litem for the child or the court,  
84 on its own motion, may, at any time, petition for review of any order  
85 entered pursuant to subsection (c) of this section, if the petitioner  
86 alleges that such action would be in the best interests of the child. The  
87 court may modify or terminate such orders as the court deems to be in  
88 the best interest of the adopted child.

89 [(b)] (i) The Superior Court upon hearing and notice, as provided in  
90 sections 45a-716 and 45a-717, may grant a petition for termination of  
91 parental rights based on consent filed pursuant to this section if it finds  
92 that (1) upon clear and convincing evidence, the termination is in the  
93 best interest of the child, and (2) such parent has voluntarily and  
94 knowingly consented to termination of the parent's parental rights  
95 with respect to such child. If the court denies a petition for termination  
96 of parental rights based on consent, it may refer the matter to an  
97 agency to assess the needs of the child, the care the child is receiving  
98 and the plan of the parent for the child. Consent for the termination of  
99 the parental rights of one parent does not diminish the parental rights  
100 of the other parent of the child, nor does it relieve the other parent of  
101 the duty to support the child.

102 [(c)] (j) The Superior Court, upon hearing and notice as provided in  
103 sections 45a-716 and 45a-717, may grant a petition filed pursuant to  
104 this section if it finds by clear and convincing evidence (1) that the  
105 Department of Children and Families has made reasonable efforts to  
106 locate the parent and to reunify the child with the parent, unless the  
107 court finds in this proceeding that the parent is unable or unwilling to  
108 benefit from reunification efforts provided such finding is not required  
109 if the court has determined at a hearing pursuant to subsection (b) of  
110 section 17a-110 or section 17a-111b that such efforts are not  
111 appropriate, (2) that termination is in the best interest of the child, and  
112 (3) that: (A) The child has been abandoned by the parent in the sense  
113 that the parent has failed to maintain a reasonable degree of interest,  
114 concern or responsibility as to the welfare of the child; (B) the parent of

115 a child who [(1)] (i) has been found by the Superior Court to have been  
116 neglected or uncared for in a prior proceeding, or [(2)] (ii) is found to  
117 be neglected or uncared for and has been in the custody of the  
118 commissioner for at least fifteen months and such parent has been  
119 provided specific steps to take to facilitate the return of the child to the  
120 parent pursuant to section 46b-129 and has failed to achieve such  
121 degree of personal rehabilitation as would encourage the belief that  
122 within a reasonable time, considering the age and needs of the child,  
123 such parent could assume a responsible position in the life of the child;  
124 (C) the child has been denied, by reason of an act or acts of parental  
125 commission or omission including, but not limited to, sexual  
126 molestation or exploitation, severe physical abuse or a pattern of  
127 abuse, the care, guidance or control necessary for [such] the child's  
128 physical, educational, moral or emotional well-being. Nonaccidental or  
129 inadequately explained serious physical injury to a child shall  
130 constitute prima facie evidence of acts of parental commission or  
131 omission sufficient for the termination of parental rights; (D) there is  
132 no ongoing parent-child relationship, which means the relationship  
133 that ordinarily develops as a result of a parent having met on a day to  
134 day basis the physical, emotional, moral and educational needs of the  
135 child and to allow further time for the establishment or  
136 reestablishment of such parent-child relationship would be  
137 detrimental to the best interest of the child; (E) the parent of a child  
138 under the age of seven years who is neglected or uncared for, has  
139 failed, is unable or is unwilling to achieve such degree of personal  
140 rehabilitation as would encourage the belief that within a reasonable  
141 period of time, considering the age and needs of the child, such parent  
142 could assume a responsible position in the life of the child and such  
143 parent's parental rights of another child were previously terminated  
144 pursuant to a petition filed by the Commissioner of Children and  
145 Families; (F) the parent has killed through deliberate, nonaccidental act  
146 another child of the parent or has requested, commanded, importuned,  
147 attempted, conspired or solicited such killing or has committed an  
148 assault, through deliberate, nonaccidental act that resulted in serious  
149 bodily injury of another child of the parent; or (G) the parent was

150 convicted as an adult or a delinquent by a court of competent  
151 jurisdiction of a sexual assault resulting in the conception of the child,  
152 except a conviction for a violation of section 53a-71 or 53a-73a,  
153 provided the court may terminate such parent's parental rights to such  
154 child at any time after such conviction.

155 [(d)] (k) Except in the case where termination is based on consent, in  
156 determining whether to terminate parental rights under this section,  
157 the court shall consider and shall make written findings regarding: (1)  
158 The timeliness, nature and extent of services offered, provided and  
159 made available to the parent and the child by an agency to facilitate the  
160 reunion of the child with the parent; (2) whether the Department of  
161 Children and Families has made reasonable efforts to reunite the  
162 family pursuant to the federal Adoption Assistance and Child Welfare  
163 Act of 1980, as amended; (3) the terms of any applicable court order  
164 entered into and agreed upon by any individual or agency and the  
165 parent, and the extent to which all parties have fulfilled their  
166 obligations under such order; (4) the feelings and emotional ties of the  
167 child with respect to the child's parents, any guardian of such child's  
168 person and any person who has exercised physical care, custody or  
169 control of the child for at least one year and with whom the child has  
170 developed significant emotional ties; (5) the age of the child; (6) the  
171 efforts the parent has made to adjust such parent's circumstances,  
172 conduct, or conditions to make it in the best interest of the child to  
173 return such child home in the foreseeable future, including, but not  
174 limited to, (A) the extent to which the parent has maintained contact  
175 with the child as part of an effort to reunite the child with the parent,  
176 provided the court may give weight to incidental visitations,  
177 communications or contributions, and (B) the maintenance of regular  
178 contact or communication with the guardian or other custodian of the  
179 child; and (7) the extent to which a parent has been prevented from  
180 maintaining a meaningful relationship with the child by the  
181 unreasonable act or conduct of the other parent of the child, or the  
182 unreasonable act of any other person or by the economic circumstances  
183 of the parent.

184        [(e)] (l) Any petition brought by the Commissioner of Children and  
185 Families to the Superior Court, pursuant to subsection (a) of section  
186 46b-129, may be accompanied by or, upon motion by the petitioner,  
187 consolidated with a petition for termination of parental rights filed in  
188 accordance with this section with respect to such child. Notice of the  
189 hearing on such petitions shall be given in accordance with sections  
190 45a-716 and 45a-717. The Superior Court, after hearing, in accordance  
191 with the provisions of subsection [(b)] (i) or [(c)] (j) of this section, may,  
192 in lieu of granting the petition filed pursuant to section 46b-129, grant  
193 the petition for termination of parental rights as provided in section  
194 45a-717.

195        [(f)] (m) Nothing contained in this section and sections 17a-113,  
196 45a-187, 45a-606, 45a-607, 45a-707 to 45a-709, inclusive, 45a-715 to  
197 45a-718, inclusive, 45a-724, 45a-725, 45a-727, 45a-733, 45a-754 and  
198 52-231a shall negate the right of the Commissioner of Children and  
199 Families to subsequently petition the Superior Court for revocation of  
200 a commitment of a child as to whom parental rights have been  
201 terminated in accordance with the provisions of this section. The  
202 Superior Court may appoint a statutory parent at any time after it has  
203 terminated parental rights if the petitioner so requests.

204        [(g)] (n) If the parental rights of only one parent are terminated, the  
205 remaining parent shall be the sole parent and, unless otherwise  
206 provided by law, guardian of the person.

207        [(h)] (o) In the case where termination of parental rights is granted,  
208 the guardian of the person or statutory parent shall report to the court  
209 within [sixty] thirty days of the date judgment is entered on a case  
210 plan, as defined by the federal Adoption Assistance and Child Welfare  
211 Act of 1980, for the child which shall include measurable objectives  
212 and time schedules. At least every six months thereafter, such  
213 guardian or statutory parent shall make a report to the court on the  
214 progress made on implementation of the plan. The court shall convene  
215 a hearing for the purpose of reviewing the plan for the child no more  
216 than twelve months from the date judgment is entered and at least

217 once a year thereafter until [such time as any proposed] the court  
218 determines that the adoption plan has become finalized. For children  
219 where the commissioner has determined that adoption is appropriate,  
220 the report on the implementation of the plan shall include a  
221 description of the reasonable efforts the department is taking to  
222 promote and expedite the adoptive placement and to finalize the  
223 adoption of the child, including documentation of child specific  
224 recruitment efforts. If the court determines that the department has not  
225 made reasonable efforts to place a child in an adoptive placement or  
226 that reasonable efforts have not resulted in the placement of the child,  
227 the court may order the Department of Children and Families, within  
228 available appropriations, to contract with a child-placing agency to  
229 arrange for the adoption of the child. The department, as statutory  
230 parent, shall continue to provide such care and services for the child  
231 while a child-placing agency is arranging for the adoption of the child.

232 [(i)] (p) The provisions of this section shall be liberally construed in  
233 the best interests of any child for whom a petition under this section  
234 has been filed.

235 Sec. 2. Subsections (d) and (e) of section 46b-129 of the general  
236 statutes are repealed and the following is substituted in lieu thereof:

237 (d) The preliminary hearing on the order of temporary custody or  
238 order to appear or the first hearing on a petition filed pursuant to  
239 subsection (a) of this section shall be held in order for the court to: (1)  
240 Advise the parent or guardian of the allegations contained in all  
241 petitions and applications that are the subject of the hearing; (2) assure  
242 that an attorney, and where appropriate, a separate guardian ad litem  
243 has been appointed to represent the child or youth in accordance with  
244 section 46b-129a and section 46b-136; (3) upon request, appoint an  
245 attorney to represent the respondent when [he] the respondent is  
246 unable to afford representation, as determined by the court; (4) advise  
247 the parent or guardian of the right to a hearing on the petitions and  
248 applications, to be held within ten days from the date of the  
249 preliminary hearing if the hearing is pursuant to an order of temporary



250 custody or an order to show cause; (5) accept a plea regarding the truth  
251 of such allegations; (6) make any interim orders, including visitation,  
252 that the court determines are in the best interests of the child or youth.  
253 The court, after a hearing pursuant to this subsection, shall [provide to]  
254 order specific steps the commissioner and the parent or guardian  
255 [specific steps necessary for each to take] shall take for the parent or  
256 guardian to regain or to retain custody of the child or youth; (7) take  
257 steps to determine the identity of the father of the child or youth,  
258 including ordering genetic testing, if necessary, and order service of  
259 the petition and notice of the hearing date, if any, to be made upon  
260 him; (8) if the person named as the father appears, and admits that he  
261 is the father, provide him and the mother with the notices which  
262 comply with section 17b-27 and provide them with the opportunity to  
263 sign a paternity acknowledgment and affirmation on forms which  
264 comply with section 17b-27. These documents shall be executed and  
265 filed in accordance with chapter 815y and a copy delivered to the clerk  
266 of the superior court for juvenile matters; and (9) in the event that the  
267 person named as a father appears and denies that he is the father of the  
268 child or youth, advise him that he may have no further standing in any  
269 proceeding concerning the child, and either order genetic testing to  
270 determine paternity or direct him to execute a written denial of  
271 paternity on a form promulgated by the Office of the Chief Court  
272 Administrator. Upon execution of such a form by the putative father,  
273 the court may remove him from the case and afford him no further  
274 standing in the case or in any subsequent proceeding regarding the  
275 child or youth until such time as paternity is established by formal  
276 acknowledgment or adjudication in a court of competent jurisdiction.

277 (e) If any parent or guardian fails, after service of such order, to  
278 appear at the preliminary hearing the court may enter or sustain an  
279 order of temporary custody. [and enter a default.]

280 Sec. 3. Subsection (k) of section 46b-129 of the general statutes is  
281 repealed and the following is substituted in lieu thereof:

282 (k) (1) Ten months after the adjudication of neglect of the child or

283 youth or twelve months after the vesting of temporary care and  
284 custody pursuant to subsection (b) of this section, whichever is earlier,  
285 the commissioner shall file a motion for review of a permanency plan  
286 and to extend or revoke the commitment. Ten months after a  
287 permanency plan has been approved by the court pursuant to this  
288 subsection, unless the court has approved placement in long-term  
289 foster care with an identified person or an independent living  
290 program, or the commissioner has filed a petition for termination of  
291 parental rights or motion to transfer guardianship, the commissioner  
292 shall file a motion for review of the permanency plan to extend or  
293 revoke the commitment. A hearing on any such motion shall be held  
294 within sixty days of the filing. The court shall provide notice to the  
295 child or youth, and his parent or guardian of the time and place of the  
296 court hearing on any such motion not less than fourteen days prior to  
297 such hearing.

298 (2) At such hearing, the court shall determine whether it is  
299 appropriate to continue to make reasonable efforts to reunify the child  
300 or youth with the parent. In making this determination, the court shall  
301 consider the best interests of the child, including the child's need for  
302 permanency. If the court finds that further efforts are not appropriate,  
303 the commissioner has no duty to make further efforts to reunify the  
304 child or youth with the parent. If the court finds that further efforts are  
305 appropriate, such efforts shall ensure that the child or youth's health  
306 and safety are protected and such efforts shall be specified by the  
307 court, including the services to be provided to the parent, what steps  
308 the parent may take to address the problem that prevents the child or  
309 youth from safely reuniting with the parent and a time period, not  
310 longer than six months, for such steps to be accomplished.

311 (3) At such hearing, the court shall approve a permanency plan that  
312 is in the best interests of the child or youth and takes into  
313 consideration the child or youth's need for permanency. Such  
314 permanency plan may include (A) revocation of commitment and  
315 placement of the child or youth with the parent or guardian, with or  
316 without protective supervision; (B) placing the child or youth in an

317 independent living program; (C) transfer of guardianship; (D)  
318 approval of long-term foster care with an identified foster parent; (E)  
319 filing of termination of parental rights; (F) if the permanency plan  
320 identifies adoption as an option, a thorough adoption assessment and  
321 child specific recruitment. As used in this subdivision, "thorough  
322 adoption assessment" means conducting and documenting face-to-face  
323 interviews with the child, foster care providers, and other significant  
324 parties and "child specific recruitment" means recruiting an adoptive  
325 placement targeted to meet the individual needs of the specific child,  
326 including, but not limited to, use of the media, use of photo-listing  
327 services and any other in-state or out-of-state resources that may be  
328 used to meet the specific needs of the child, unless there are  
329 extenuating circumstances that indicate that these efforts are not in the  
330 best interest of the child; or [(F)] (G) such other appropriate action  
331 ordered by the court. At the permanency plan hearing, the court shall  
332 review the status of the child, the progress being made to implement  
333 the permanency plan and determine a timetable for attaining the  
334 permanency prescribed by the plan. The court shall extend  
335 commitment if extension is in the best interests of the child or youth  
336 for a period of twelve months. The court shall revoke commitment if a  
337 cause for commitment no longer exists and it is in the best interests of  
338 the child or youth.

339 [(4) Commitment shall be revoked by operation of law sixty days  
340 after a child or youth is removed from long-term foster care or an  
341 independent living program or sixty days after a termination petition  
342 is dismissed or a motion to transfer guardianship is denied, unless  
343 otherwise ordered by the court.]

344 Sec. 4. Section 45a-715 of the general statutes is amended by adding  
345 subsections (h) to (n), inclusive, as follows:

346 (NEW) (h) Either or both birth parents and an intended adoptive  
347 parent may enter into a cooperative postadoption agreement regarding  
348 communication or contact between either or both birth parents and the  
349 adopted child. Such an agreement may be entered into if: (1) The child

350 is in the custody of the Department of Children and Families; (2) an  
351 order terminating parental rights has not yet been entered; and (3)  
352 either or both birth parents agree to a voluntary termination of  
353 parental rights, including an agreement in a case which began as an  
354 involuntary termination of parental rights. The postadoption  
355 agreement shall be applicable only to a birth parent who is a party to  
356 the agreement. Such agreement shall be in addition to those under  
357 common law. Counsel for the child and any guardian ad litem for the  
358 child may be heard on the proposed cooperative postadoption  
359 agreement. There shall be no presumption of communication or  
360 contact between the birth parents and an intended adoptive parent in  
361 the absence of a cooperative postadoption agreement.

362 (NEW) (i) If the court of probate determines that the child's best  
363 interests will be served by postadoption communication or contact  
364 with either or both birth parents, the court shall so order, stating the  
365 nature and frequency of the communication or contact. A court may  
366 grant postadoption communication or contact privileges if: (1) Each  
367 intended adoptive parent consents to the granting of communication  
368 or contact privileges; (2) the intended adoptive parent and either or  
369 both birth parents execute a cooperative agreement and file the  
370 agreement with the court; (3) consent to postadoption communication  
371 or contact is obtained from the child, if the child is at least twelve years  
372 of age; and (4) the cooperative postadoption agreement is approved by  
373 the court.

374 (NEW) (j) A cooperative postadoption agreement shall contain the  
375 following: (1) An acknowledgement by either or both birth parents that  
376 the termination of parental rights and the adoption is irrevocable, even  
377 if the adoptive parents do not abide by the cooperative postadoption  
378 agreement; and (2) an acknowledgement by the adoptive parents that  
379 the agreement grants either or both birth parents the right to seek to  
380 enforce the cooperative postadoption agreement.

381 (NEW) (k) The terms of a cooperative postadoption agreement may  
382 include the following: (1) Provision for communication between the

383 child and either or both birth parents; (2) provision for future contact  
384 between either or both birth parents and the child or an adoptive  
385 parent; and (3) maintenance of medical history of either or both birth  
386 parents who are a party to the agreement.

387 (NEW) (l) The order approving a cooperative postadoption  
388 agreement shall be made part of the final order terminating parental  
389 rights. The finality of the termination of parental rights and of the  
390 adoption shall not be affected by implementation of the provisions of  
391 the postadoption agreement, nor is the cooperative postadoption  
392 contingent upon the finalization of an adoption. Such an agreement  
393 shall not affect the ability of the adoptive parents and the child to  
394 change their residence within or outside this state.

395 (NEW) (m) A disagreement between the parties or litigation  
396 brought to enforce or modify the agreement shall not affect the validity  
397 of the termination of parental rights or the adoption and shall not  
398 serve as a basis for orders affecting the custody of the child. The court  
399 shall not act on a petition to change or enforce the agreement unless  
400 the petitioner had participated, or attempted to participate, in good  
401 faith in mediation or other appropriate dispute resolution proceedings  
402 to resolve the dispute and allocate any cost for such mediation or  
403 dispute resolution proceedings.

404 (NEW) (n) An adoptive parent, guardian ad litem for the child or  
405 the court on its own motion may, at any time, petition for review of  
406 communication or contact ordered pursuant to subsection (i) of this  
407 section, if the adoptive parent believes that the best interests of the  
408 child are being compromised. The court may order the communication  
409 or contact be terminated, or order such conditions in regard to  
410 communication or contact as the court deems to be in the best interest  
411 of the adopted child.

412 Sec. 5. Section 2 of public act 99-166 is repealed and the following is  
413 substituted in lieu thereof:

414 (a) In order to achieve early permanency for children, decrease

415 children's length of stay in foster care and reduce the number of moves  
416 children experience in foster care, the Commissioner of Children and  
417 Families shall establish a program for concurrent permanency  
418 planning.

419 (b) Concurrent permanency planning involves a planning process to  
420 identify permanent placements and prospective adoptive parents so  
421 that when termination of parental rights are granted by the court  
422 pursuant to section 17a-112 of the general statutes, as amended by this  
423 act, or section 45a-717 of the general statutes, permanent placement or  
424 adoption proceedings may commence immediately.

425 (c) The commissioner shall establish guidelines and protocols for  
426 child-placing agencies involved in concurrent permanency planning,  
427 including criteria for conducting concurrent permanency planning  
428 based on relevant factors such as: (1) Age of the child and duration of  
429 out-of-home placement; (2) prognosis for successful reunification with  
430 parents; (3) availability of relatives and other concerned individuals to  
431 provide support or a permanent placement for the child; (4) special  
432 needs of the child; and (5) other factors affecting the child's best  
433 interests, goals of concurrent permanency planning, support services  
434 that are available for families, permanency options, and the  
435 consequences of not complying with case plans.

436 (d) Within six months of out-of-home placement, the Department of  
437 Children and Families shall complete an assessment of the likelihood  
438 of the child's being reunited with either or both birth parents, based on  
439 progress made to date. The Department of Children and Families shall  
440 develop a concurrent permanency plan for families with poor  
441 prognosis for reunification within such time period. Such assessment  
442 and concurrent permanency plan shall be filed with the court.

443 (e) Concurrent permanency planning programs must include  
444 involvement of parents and full disclosure of their rights and  
445 responsibilities.

446 [(d)] (f) The commissioner shall provide ongoing technical

447 assistance, support, and training for local child-placing agencies and  
448 other individuals and agencies involved in concurrent permanency  
449 planning.

450 Sec. 6. Section 17a-42 of the general statutes is repealed and the  
451 following is substituted in lieu thereof:

452 (a) There is established within the Department of Children and  
453 Families a photo-listing service which shall include, but need not be  
454 limited to, a book and an electronic format containing a photograph  
455 and description of each child to be photo-listed. Such book and its  
456 electronic format shall be distributed to all child care and child-placing  
457 agencies, as such terms are defined in section 45a-707, and to other  
458 organizations concerned with adoption. Such photo-listing service  
459 shall recruit adoptive families for children who are legally free for  
460 adoption under section 45a-725, and have remained in foster care or  
461 institutions for a period of [three months] thirty days or more, such  
462 [three months] thirty days to include any period of foster or  
463 institutional care immediately preceding the date on which such child  
464 was legally free for adoption. The Commissioner of Children and  
465 Families shall employ under his direction and control such persons as  
466 he deems necessary for the effective performance of such photo-listing  
467 service.

468 (b) Under sections 17a-112 and 45a-717, as amended by this act, the  
469 court may order that a child be photo-listed within thirty days of the  
470 termination of parental rights as a condition of granting an order of  
471 termination of parental rights if the court determines that it is in the  
472 best interests of the child. The court shall not order that a child twelve  
473 years of age or older be photo-listed unless such child consents to such  
474 photo-listing.

475 [(b)] (c) Said commissioner shall adopt regulations, in accordance  
476 with the provisions of chapter 54, to implement and maintain a photo-  
477 listing service. [within said department.] Such regulations shall  
478 include, but not be limited to, procedures for registration of children

479 with the photo-listing service and format and media selection for  
480 presenting photo-listed children to the public. The commissioner shall,  
481 within available appropriations, establish, maintain and distribute a  
482 photo-listing service book. The commissioner, within available  
483 appropriations, shall contract with a nonprofit agency to establish and  
484 maintain the photo-listing service in its electronic format.

485 Sec. 7. Section 17a-43 of the general statutes is repealed and the  
486 following is substituted in lieu thereof:

487 (a) Each child legally free for adoption, for whom the photo-listing  
488 service may recruit an adoptive family under subsection (a) of section  
489 17a-42, shall, and any other such legally free child may, be registered  
490 with the photo-listing service within ten working days of becoming a  
491 child for whom such service may recruit an adoptive family. Each such  
492 registration shall include a recent photograph and written description  
493 of the child. Each such registration shall be reported to the court that  
494 ordered termination of parental rights.

495 (b) All changes in the status of a registered child shall be reported  
496 by the child care or child-placing agency to the photo-listing service  
497 within five working days after such change has occurred.

498 (c) Children remaining registered for a period in excess of twelve  
499 months shall have their photograph and written description updated  
500 within fifteen working days of the expiration of the twelfth month of  
501 their registration and every twelve months thereafter.

502 (d) A child's registration shall be withdrawn when the photo-listing  
503 service has been notified in writing that the child has been adopted,  
504 has reached his or her fourteenth birthday and will not consent to an  
505 adoption plan or has died.

506 Sec. 8. Section 17a-44 of the general statutes is repealed and the  
507 following is substituted in lieu thereof:

508 (a) The photo-listing service shall semiannually check the status of



509 photo-listed children for whom inquiries have been received. Periodic  
510 checks shall be made by such service to determine the progress toward  
511 adoption of such children and the status of those children registered  
512 but never photo-listed because of placement in an adoptive home prior  
513 to or at the time of registration.

514 (b) The commissioner shall refer appropriate children to national  
515 adoption exchanges when an adoptive family has not been identified  
516 within one hundred eighty days of the termination of the parental  
517 rights. The commissioner shall establish criteria by which a  
518 determination may be made that a referral to national exchanges is not  
519 necessary, and the commissioner shall monitor the status of those  
520 children not referred.

521 Sec. 9. Section 45a-726 of the general statutes, as amended by section  
522 9 of public act 99-166, is repealed and the following is substituted in  
523 lieu thereof:

524 (a) If the Commissioner of Children and Families or a child-placing  
525 agency is appointed as statutory parent for any child free for adoption,  
526 the commissioner or such agency shall not refuse to place or delay  
527 placement of such child with any prospective adoptive parent solely  
528 on the basis of a difference in race, color or national origin.

529 (b) The Commissioner of Children and Families or the child-placing  
530 agency, in determining placement for each child, shall focus on the  
531 particular needs of the child and the capacity of the prospective  
532 adoptive parent to meet such needs. Whenever possible, siblings  
533 should be placed with the same prospective adoptive parent unless it  
534 is determined not to be in the best interests of a sibling.

535 (c) The Commissioner of Children and Families shall not  
536 discriminate in preparing a home study or in placing a child with a  
537 prospective adoptive parent based on whether the prospective parent  
538 is or is not willing to become a foster parent pending an adoption  
539 placement.

540 Sec. 10. Section 2 of public act 99-252 is repealed and the following is  
541 substituted in lieu thereof:

542 The Department of Children and Families shall, within available  
543 appropriations, prepare an information handbook for any individual  
544 interested in adopting a child with special needs. The department and  
545 child-placing agencies shall give the handbook to such interested  
546 individual [at the time] no later than the beginning of the home study  
547 process. The handbook shall contain information concerning matters  
548 relating to adoption and adoption assistance including, but not limited  
549 to, nondiscrimination practices set forth in section 45a-726, as amended  
550 by this act, postplacement and postadoption services, adoption  
551 subsidies, deferred subsidy agreements, modification of rates and  
552 agreements, health care support, reimbursements, assistance if the  
553 family moves out of state and the right to records and information  
554 related to the history of the child, including information available  
555 under subsection (a) of section 45a-746. The handbook shall be  
556 developed and updated by the Commissioner of Children and  
557 Families with the advice and assistance of the Connecticut Association  
558 of Foster and Adoptive Families and at least two other licensed child-  
559 placing agencies in Connecticut designated by the commissioner.

560 Sec. 11. Section 45a-716 of the general statutes, as amended by  
561 section 31 of public act 99-84, is repealed and the following is  
562 substituted in lieu thereof:

563 (a) Upon receipt of a petition for termination of parental rights, the  
564 Court of Probate or the Superior Court, on a case transferred to it from  
565 the Court of Probate in accordance with the provisions of subsection  
566 (g) of section 45a-715, shall set a time and place for hearing the  
567 petition. The time for hearing shall be not more than thirty days after  
568 the filing of the petition.

569 (b) The court shall cause notice of the hearing to be given to the  
570 following persons as applicable: (1) The parent or parents of the minor  
571 child, including any parent who has been removed as guardian on or

572 after October 1, 1973, under section 45a-606; (2) the father of any minor  
573 child born out of wedlock, provided at the time of the filing of the  
574 petition (A) he has been adjudicated the father of such child by a court  
575 of competent jurisdiction, or (B) he has acknowledged in writing to be  
576 the father of such child, or (C) he has contributed regularly to the  
577 support of such child, or (D) his name appears on the birth certificate,  
578 or (E) he has filed a claim for paternity as provided under section  
579 46b-172a, or (F) he has been named in the petition as the father of the  
580 child by the mother; (3) the guardian or any other person whom the  
581 court shall deem appropriate; (4) the Commissioner of Children and  
582 Families. If the recipient of the notice is a person described in  
583 subdivision (1) or (2) of this subsection or is any other person whose  
584 parental rights are sought to be terminated in the petition, the notice  
585 shall contain a statement that the respondent has the right to be  
586 represented by counsel and that if the respondent is unable to pay for  
587 counsel, counsel will be appointed for the respondent. The reasonable  
588 compensation for such counsel shall be established by, and paid from  
589 funds appropriated to, the Judicial Department, however, in the case of  
590 a Probate Court matter, if funds have not been included in the budget  
591 of the Judicial Department for such purposes, such compensation shall  
592 be established by the Probate Court Administrator and paid from the  
593 Probate Court Administration Fund.

594 (c) Except as provided in subsection (d) of this section, notice of the  
595 hearing and a copy of the petition, certified by the petitioner, the  
596 petitioner's agent or attorney, or the court clerk, shall be served at least  
597 ten days before the date for the hearing by personal service or service  
598 at the person's usual place of abode on the persons enumerated in  
599 subsection (b) of this section who are within the state, and by certified  
600 mail, return receipt requested, on the Commissioner of Children and  
601 Families. If the address of any person entitled to personal service or  
602 service at the person's usual place of abode is unknown, or if personal  
603 service or service at the person's usual place of abode cannot be  
604 reasonably effected within the state or if any person enumerated in  
605 subsection (b) of this section is out of the state, a judge or clerk of the

606 court shall order notice to be given by registered or certified mail,  
607 return receipt requested, or by publication at least ten days before the  
608 date of the hearing. Any publication shall be in a newspaper of general  
609 circulation in the place of the last-known address of the person to be  
610 notified, whether within or without this state, or if no such address is  
611 known, in the place where the termination petition has been filed.

612 (d) In any proceeding pending in the Court of Probate, in lieu of  
613 personal service on a parent or the father of a child born out of  
614 wedlock who is either a petitioner or who signs under penalty of false  
615 statement a written waiver of personal service on a form provided by  
616 the Probate Court Administrator, the court may order notice to be  
617 given by certified mail, return receipt requested, deliverable to  
618 addressee only and at least ten days prior to the date of the hearing. If  
619 such delivery cannot reasonably be effected, or if the whereabouts of  
620 the parents is unknown, then notice shall be ordered to be given by  
621 publication, as provided in subsection (c) of this section.

622 Sec. 12. Subsection (g) of section 45a-717 of the general statutes is  
623 repealed and the following is substituted in lieu thereof:

624 (g) At the adjourned hearing or at the initial hearing where no  
625 investigation and report has been requested, the court may approve a  
626 petition terminating the parental rights and may appoint a guardian of  
627 the person of the child, or, if the petitioner requests, the court may  
628 appoint a statutory parent, if it finds, upon clear and convincing  
629 evidence, that (1) the termination is in the best interest of the child, and  
630 (2) (A) the child has been abandoned by the parent in the sense that the  
631 parent has failed to maintain a reasonable degree of interest, concern  
632 or responsibility as to the welfare of the child; (B) the child has been  
633 denied, by reason of an act or acts of parental commission or omission,  
634 including, but not limited to sexual molestation and exploitation,  
635 severe physical abuse or a pattern of abuse, the care, guidance or  
636 control necessary for the child's physical, educational, moral or  
637 emotional well-being. Nonaccidental or inadequately explained  
638 serious physical injury to a child shall constitute prima facie evidence

639 of acts of parental commission or omission sufficient for the  
640 termination of parental rights; (C) there is no ongoing parent-child  
641 relationship which is defined as the relationship that ordinarily  
642 develops as a result of a parent having met on a continuing, day-to-  
643 day basis the physical, emotional, moral and educational needs of the  
644 child and to allow further time for the establishment or  
645 reestablishment of the parent-child relationship would be detrimental  
646 to the best interests of the child; (D) the parent of a child who [(1)] (i)  
647 has been found by the Superior Court to have been neglected or  
648 uncared for in a prior proceeding, or [(2)] (ii) is found to be neglected  
649 or uncared for and has been in the custody of the commissioner for at  
650 least fifteen months and such parent has been provided specific steps  
651 to take to facilitate the return of the child to the parent pursuant to  
652 section 46b-129 and has failed to achieve such degree of personal  
653 rehabilitation as would encourage the belief that within a reasonable  
654 time, considering the age and needs of the child, such parent could  
655 assume a responsible position in the life of the child; (E) the parent of a  
656 child, under the age of seven years who is neglected or uncared for,  
657 has failed, is unable or is unwilling to achieve such degree of personal  
658 rehabilitation as would encourage the belief that within a reasonable  
659 amount of time, considering the age and needs of the child, such  
660 parent could assume a responsible position in the life of the child and  
661 such parent's parental rights of another child were previously  
662 terminated pursuant to a petition filed by the Commissioner of  
663 Children and Families; (F) the parent has killed through deliberate,  
664 nonaccidental act another child of the parent or has requested,  
665 commanded, importuned, attempted, conspired or solicited such  
666 killing or has committed an assault, through deliberate, nonaccidental  
667 act that resulted in serious bodily injury of another child of the parent;  
668 or (G) the parent was convicted as an adult or a delinquent by a court  
669 of competent jurisdiction of sexual assault resulting in the conception  
670 of a child except for a violation of section 53a-71 or 53a-73a [resulting  
671 in the conception of the child] provided the court may terminate such  
672 parent's parental rights to such child at any time after such conviction.

673 Sec. 13. Subsection (a) of section 17a-111a of the general statutes is  
674 repealed and the following is substituted in lieu thereof:

675 (a) The Commissioner of Children and Families shall file a petition  
676 to terminate parental rights pursuant to section 17a-112 if (1) the child  
677 has been in the custody of the commissioner for at least fifteen  
678 consecutive months, or at least fifteen months during the twenty-two  
679 months, immediately preceding the filing of such petition; (2) the child  
680 has been abandoned as defined in subsection [(c)] (j) of section 17a-112,  
681 as amended by this act; or (3) a court of competent jurisdiction has  
682 found that (A) the parent has killed, through deliberate, nonaccidental  
683 act, a sibling of the child or has requested, commanded, importuned,  
684 attempted, conspired or solicited to commit the killing of the child or a  
685 sibling of the child; or (B) the parent has assaulted the child or a sibling  
686 of a child, through deliberate, nonaccidental act, and such assault  
687 resulted in serious bodily injury to such child.

688 Sec. 14. Subsection (a) of section 17a-111b of the general statutes is  
689 repealed and the following is substituted in lieu thereof:

690 (a) The Commissioner of Children and Families may, at any time,  
691 petition the court for a determination on whether reasonable efforts to  
692 reunify the parent with the child are appropriate. The court may  
693 determine that such efforts are not appropriate if: (1) The parent has  
694 subjected the child to the following aggravated circumstances: (A) The  
695 child has been abandoned as defined in subsection [(c)] (j) of section  
696 17a-112, as amended by this act; or (B) the parent has inflicted sexual  
697 molestation or exploitation or severe physical abuse on the child or  
698 engaged in a pattern of abuse of the child; (2) the parent has killed,  
699 through deliberate, nonaccidental act, a sibling of the child, or has  
700 required, commanded, importuned, attempted, conspired or solicited  
701 to commit the killing of the child or sibling of the child, or has  
702 committed an assault, through deliberate, nonaccidental act, that  
703 resulted in serious bodily injury of the child or a sibling of the child; (3)  
704 the parental rights of the parent to a sibling have been involuntarily  
705 terminated within three years of the filing of a petition pursuant to this

706 section, provided the commissioner has made reasonable efforts to  
707 reunify the parent with the child during a period of at least ninety  
708 days; or (4) the parent was convicted by a court of competent  
709 jurisdiction of sexual assault, except a conviction of a violation of  
710 section 53a-71 or 53a-73a resulting in the conception of the child.

711 Sec. 15. Subsection (a) of section 46b-129 of the general statutes is  
712 repealed and the following is substituted in lieu thereof:

713 (a) Any selectman, town manager, or town, city, or borough welfare  
714 department, any probation officer, or the Commissioner of Social  
715 Services, the Commissioner of Children and Families or any child-  
716 caring institution or agency approved by the Commissioner of  
717 Children and Families, a child or his representative or attorney or a  
718 foster parent of a child, having information that a child or youth is  
719 neglected, uncared-for or dependent, may file with the Superior Court  
720 which has venue over such matter a verified petition plainly stating  
721 such facts as bring the child or youth within the jurisdiction of the  
722 court as neglected, uncared-for, or dependent, within the meaning of  
723 section 46b-120, the name, date of birth, sex, and residence of the child  
724 or youth, the name and residence of his parents or guardian, and  
725 praying for appropriate action by the court in conformity with the  
726 provisions of this chapter. Upon the filing of such a petition, except as  
727 otherwise provided in subsection [(d)] (k) of section 17a-112, as  
728 amended by this act, the court shall cause a summons to be issued  
729 requiring the parent or parents or the guardian of the child or youth to  
730 appear in court at the time and place named, which summons shall be  
731 served not less than fourteen days before the date of the hearing in the  
732 manner prescribed by section 46b-128, and said court shall further give  
733 notice to the petitioner and to the Commissioner of Children and  
734 Families of the time and place when the petition is to be heard not less  
735 than fourteen days prior to the hearing in question.

736 Sec. 16. Section 52-212a of the general statutes is repealed and the  
737 following is substituted in lieu thereof:

738 Unless otherwise provided by law and except in such cases in which  
739 the court has continuing jurisdiction, a civil judgment or decree  
740 rendered in the Superior Court may not be opened or set aside unless a  
741 motion to open or set aside is filed within four months following the  
742 date on which it was rendered or passed. The continuing jurisdiction  
743 conferred on the court in preadoptive proceedings pursuant to  
744 subsection [(h)] (o) of section 17a-112, as amended by this act, does not  
745 confer continuing jurisdiction on the court for purposes of reopening a  
746 judgment terminating parental rights. The parties may waive the  
747 provisions of this section or otherwise submit to the jurisdiction of the  
748 court, provided the filing of an amended petition for termination of  
749 parental rights does not constitute a waiver of the provisions of this  
750 section or a submission to the jurisdiction of the court to reopen a  
751 judgment terminating parental rights.



The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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### **OFA Fiscal Note**

**State Impact:** Yes

**Affected Agencies:** Department of Children and Families, Judicial Department, Probate Court (Judicial Department), Department of Social Services

**Municipal Impact:** None

### **Explanation**

**State Impact:**

This bill makes various changes that will impact upon the programmatic and financial operation of state agencies involved with children who may be adopted after having been in out-of-home placement.

Should these changes result in expedited adoptions of children who might otherwise be maintained in foster care placements, the Department of Children and Families (DCF) will experience a savings when the child is not deemed to meet the statutory definition of a special needs child (Section 17a-116 CGS). This will result because monthly maintenance payments to foster parents on the child's behalf will cease at the time of adoption. Effective September 1, 1999, the average monthly foster care payment is approximately \$693 per month (or \$8,318 annually). The Department of Social Services will experience a cost savings as the child's Medicaid eligibility would also cease. Any savings to both agencies would be partially offset by

reduced federal financial participation.

However, the majority of adopted children who leave foster care are deemed to be special needs children. In these cases, the DCF provides a monthly subsidy slightly less than that paid to foster parents and Medicaid eligibility is continued until age eighteen. Thus, the state will experience a minimal per child savings for each child who may be adopted more rapidly as a result of the bill. As children in subsidized adoptive care are not carried on the agency's caseload for purposes of determining social work staffing levels under the Juan F. vs. Rowland Consent Decree, a workload reduction which might lead to administrative savings for the DCF may occur. The magnitude of any potential savings would be dependent upon how many additional children leave foster care and cannot be determined at this time.

#### **Court Deadlines in Cases Involving Adoptable Children**

The bill changes from sixty to thirty days the time period in which the DCF must file a case plan with the Superior Court following the termination of a child's parental rights. This will result in a workload increase to the department. Approximately 850 children annually have their parental rights terminated in juvenile court. It is anticipated that the agency will be able to comply with the thirty-day time frame within its anticipated budgetary resources.

The bill requires the DCF to report to the court on efforts it is taking to promote and expedite adoptive placement and finalization for those children for whom adoption is appropriate. It is anticipated that this can be accommodated within the agency's anticipated budgetary resources.

The DCF will be required to complete an assessment of the likelihood of reunification of a child with the child's birth parents within six months of out-of-home placement. A concurrent permanency plan for families with poor prognosis for reunification must also be developed within the same six-month period. The assessment and plan must be filed with the Superior Court. If data

now collected via the agency's administrative care review (ACR) process, which is conducted every six months, is not deemed acceptable by the court, it is uncertain whether the agency will be able to comply with this mandate without redeploying resources from other mandated duties.

### **Child Specific Recruiting for Adoptive Families**

A potential cost will be incurred by the DCF to the extent that the bill allows the court to: (a) order a contract with a child-placing agency to arrange for the adoption of a child if it finds that the department has not made reasonable efforts to do so, and (b) include within an approved permanency plan a requirement for "child specific recruiting." The agency currently devotes approximately \$800,000 to contracted adoption recruitment efforts. Should the number of children for whom the court orders targeted recruitment and/or the scope of these services exceed that currently provided, a potential indeterminate cost will result.

The DCF will be required to refer "appropriate children" to a national adoption exchange when an adoptive family has not been identified within 180 days of the termination of the child's parental rights. The agency currently pays a nominal annual fee that allows it to participate in a national adoption exchange. Therefore, no fiscal impact is anticipated to result from adoption of this provision.

### **Use of Photo-Listing Service**

The bill requires the DCF to contract with a nonprofit agency to electronically distribute a photo-listing book for adoptable children. It is anticipated that this can be accomplished within the DCF's anticipated budgetary resources. Requiring the DCF to establish, maintain and distribute the photo-listing book will result in no additional costs to the agency, as it currently operates its own photo-listing service with in-house resources.

It is anticipated that the DCF will be able to report a child's listing

on the service to the court that ordered the termination of the child's parental rights within its anticipated budgetary resources.

### **Other DCF Changes**

The DCF shall be prohibited from discriminating in the preparation of a home study or in the placement of a child with a prospective adoptive parent based on whether the prospective parent is willing to become a foster parent pending an adoption placement. This may facilitate the adoption of certain foster children.

The bill clarifies that the DCF must provide adoption information handbooks to interested parties at the beginning of the home study process. Further, these informational packets must include a statement regarding the nondiscrimination practices discussed above. This can be accommodated within the agency's anticipated budgetary resources.

Allowing notice of court hearings in cases involving the potential termination of parental rights to be made at the person's usual place of abode instead of in person will result in no fiscal impact.

The bill clarifies existing law regarding the termination of parental rights of persons convicted of sexual assault by stating that the conviction may have occurred as an adult or a delinquent, in cases in which the assault resulted in the conception of the child. This may facilitate the termination of parental rights in certain cases and make a child available for adoption earlier.

It also eliminates a provision of current law that leads to the revocation of commitment of a child to the state sixty days after the child's removal from long-term foster care or independent living, or after the dismissal of a termination petition or denial of a motion to transfer guardianship. If this is interpreted to require court action to rescind commitments of certain DCF clients, a workload increase for the juvenile court may result.

### **Cooperative Postadoption Agreements**

The bill authorizes birth parents and intended adoptive parents to enter into cooperative postadoption agreements. It is anticipated that the participation of the Superior and Probate Courts in ensuing legal proceedings can be accommodated within their respective anticipated budgetary resources.

An adoptive parent or guardian who wants to petition the court to change or enforce agreements regarding postadoption communication or contact must first show that he/she has tried in good faith to resolve the dispute through mediation or other dispute resolution processes. It is estimated that about 250-300 children annually will become the subject of postadoption agreements. An indeterminate percentage of parties to these agreements may subsequently petition to have them modified. When this happens, it is unclear as to which entity should provide and pay for the cost of the required dispute mediation services. If the responsibility falls to staff within the juvenile courts, then this would result in a cost to the Judicial Department related to an indeterminate additional number of court staff that may be needed to handle the increase in workload.

House "A" makes various changes to the underlying bill, as follows:

It removes the Department of Children and Families as a party to cooperative postadoption agreements. It had been anticipated that the agency would have participated in the development of these agreements within its anticipated budgetary resources.

It clarifies the bill by stating that postadoption agreements are only applicable to birth parents who are a party to the agreement. No fiscal impact is associated with this change.

It adds language regarding the allocation of costs of mediation or dispute resolution proceedings involving petitioners who ask the Supreme Court or Probate Court to change or enforce a postadoption agreement. A statement of fiscal impact cannot be offered at this time,

as the intent of the language is unclear.

It eliminates a provision of the bill that changed from twelve months to six months the frequency of mandated court hearings for the purpose of reviewing permanency plans. This will remove a \$50,000 - \$100,000 cost to the Judicial Department for payments to contracted attorneys that had been associated with this change.

It states that court-ordered child placement services (provided by private agencies under contract with DCF) are to be “within available appropriations.” This will not alter the original fiscal note. If the value of court ordered services exceeds current funding, restricting access to these services would place the Commissioner of Children and Families in a position of being in violation of a court order.

It allows guardian ad litem or the Probate Court to petition for review of postadoption agreements. It is anticipated that any resulting workload increase can be accommodated within the anticipated budgetary resources of the Probate Court.

It eliminates Sections 5 of the original bill, which would have required the Probate Court to file a copy of its annual report with the Clerks of the House and Senate, the State Library and the Office of Legislative Research. It also eliminates Section 6, which would have required a report from the Probate Court on the feasibility of reporting adoption information by January 1, 2001. Under the language of the original bill, both of these responsibilities could have been accommodated within the Court’s anticipated budgetary resources.

The amendment clarifies the bill by stating that the court may not order photo-listing of a child twelve years or over without the child’s consent. It also states that the court must determine that photo-listing is in the best interest of a child before ordering this be done. These changes are not anticipated to result in a significant fiscal impact.

It modifies the bill by stating that the DCF will establish, maintain and distribute an adoption photo-listing book. Under the original bill,

this function, as well as the electronic distribution of the book, was to be done under contract with a nonprofit agency. This will result in an indeterminate savings, as the DCF already performs these services in-house.

Finally, it removes references to regional adoption exchanges. This result in no fiscal impact, as there appears to be no regional adoption exchange applicable to Connecticut.

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**OLR Amended Bill Analysis**

sHB 5707 (as amended by House "A")\*

**AN ACT CONCERNING THE ADOPTION OF CHILDREN FROM THE FOSTER CARE SYSTEM.****SUMMARY:**

This bill:

1. allows intended adoptive parents, birth parents of a child in foster care to enter a court-sanctioned agreement governing postadoption communication and contact with the child and among the parents;
2. speeds up the process for reviewing plans made for foster children who could be adopted and provides for more thorough assessment of adoption placement efforts;
3. requires DCF, if funds are available, to maintain and distribute a photo listing book of children available for adoption and contract with a nonprofit agency to maintain an electronic photo-listing service;
4. prohibits DCF from discriminating against prospective adoptive parents because they do not become foster parents; and
5. makes other minor changes in adoption laws.

\*House Amendment "A" (1) removes a probate court report on adoptions, DCF's status as a party in postadoption agreements, and a requirement for DCF to refer children to regional adoption exchanges; (2) makes the agreements binding only on birth parents who are parties to them; (3) requires DCF to provide a photo listing book within its available appropriations; (4) makes DCF's contracting for court-ordered adoption services and electronic photo listing format contingent on its available appropriations; (5) allows a guardian ad litem and the court to ask a court to review the way the agreement is working; and (6) makes other minor changes.



EFFECTIVE DATE: October 1, 2000

## **POSTADOPTION AGREEMENTS**

The bill permits either or both birth parents and an intended adoptive parent to agree to terms governing communication and contact between the birth parents and the child after adoption. An agreement is made as part of a proceeding to terminate parental rights (TPR) in either Superior or probate court. Only a birth parent who is a party to the agreement is bound by its terms. The bill states that a court-ordered agreement is in addition to any made under common law. It also states that without an agreement there is no presumption of communication or contact between birth and intended adoptive parents.

### ***Conditions for Agreement***

An agreement can be made if (1) the child is in DCF custody, (2) a TPR order has not yet been entered, and (3) the birth parent or parents agree to terminate their rights voluntarily. They can do this even if they did not originally consent to termination.

### ***Terms of an Agreement***

An agreement may include provisions concerning (1) communication and contact between the child and either or both birth parents, (2) contact between the birth and adoptive parents, and (3) maintenance of the medical history of the birth parents who are party to the agreement. It does not have to contain all of these terms.

An agreement must contain (1) the birth parents' acknowledgement that the termination of their rights and the adoption is irrevocable, even if the adoptive parents do not abide by the agreement and (2) the adoptive parents' acknowledgement that the agreement entitles the birth parents to ask a court to enforce it.

### ***Granting and Implementing an Agreement***

The child's attorney (who represents the child) and his guardian ad litem (who represents the child's best interest) can comment on the proposed agreement. The court can enter the order granting the agreement if (1) it determines the agreement is in the child's best

interest; (2) each intended adoptive parent consents to allowing communication and contact; (3) the child, if age 12 or older, consents; (4) all parents who are parties execute the agreement and file it with the court; and (5) the court approves.

The order granting the agreement becomes part of the final TPR order. The adoption or TPR can become final even if the agreement is not implemented. The agreement does not affect the ability of the adoptive parents and child to move within or out of the state.

### ***Disagreements***

An adoptive parent, the child's guardian ad litem, or the court on its own can ask for a review of the agreement order if the adoptive parent believes the child's best interests are being compromised. The party asking to modify or enforce the order must show that he has tried in good faith to resolve the dispute through mediation or another dispute resolution process. The bill appears to require the parties to prohibit the court from acting unless the parties allocate their mediation or dispute resolution costs (see COMMENT). The court can modify or end the order as it determines in the child's best interests.

A disagreement between the birth and adoptive parents or litigation to enforce or modify the agreement does not affect the validity of the TPR or the adoption and cannot be the basis for orders affecting the child's custody.

## **ADOPTION PLANNING**

### ***Permanency Planning Before TPR***

By law, after a court commits an abused or neglected child to DCF, DCF must develop a plan for returning the child to his family or arranging for some other permanent placement, which can include adoption. The court periodically reviews these permanency plans to determine whether to continue, modify, or terminate them. The bill requires the court to review the child's status and the progress toward implementing the plan and to set a timetable for achieving the plan's goals.

The bill requires plans that identify adoption as an option to include a "thorough adoption assessment" and "child specific recruitment"

methods. It defines the former term as face-to-face interviews with the child, foster parents, and other significant parties and documenting these. It defines the latter as recruiting efforts to meet a specific child's needs, including using the media and photo-listing services and other in- and out-of state resources, unless extenuating circumstances indicate they are not in the child's best interests.

A 1999 law required DCF to establish a concurrency planning program that permitted it, during the TPR process, both to try to reunify the family and identify prospective adoptive parents. The bill requires this concurrency planning program to involve the parents and fully disclose to them their rights and responsibilities.

The bill requires DCF, within six months of placing a child in foster care or some other out-of-home placement, to assess, based on progress to date, whether reunification with one or both birth parents is likely. If the assessment shows a poor prognosis for reunification during this six months, DCF must develop a concurrent plan for the child. It must file both the assessment and the plan with the court.

The bill eliminates the law that revokes a child's commitment to DCF 60 days after (1) he is removed from long-term foster care or an independent living program, (2) a TPR petition is dismissed, or (3) a motion to transfer guardianship is denied. The revocation occurs by operation of law unless a court orders otherwise.

### ***Planning and Review After TPR***

By law, when the Superior Court terminates parental rights and no parent remains with rights, the court appoints a statutory parent for the child, usually DCF. DCF must develop a plan for the child (typically an adoption plan since these children are available for adoption) and report periodically to the court on its status. The bill speeds up the reporting schedule. It requires the plan's submission 30, rather than 60, days after the TPR judgment is entered.

The bill requires reports for children where DCF determines adoption is appropriate to describe the agency's reasonable efforts to expedite and finalize adoption, including child-specific recruitment.

If the court determines DCF has not made reasonable efforts or that its reasonable efforts have not resulted in an adoptive placement, the bill

allows the court to order DCF to contract with a private agency it licenses to arrange for the adoption. The contract must be made within the agency's available appropriations. The law already encourages DCF to do this for any child free for adoption. DCF remains the child's statutory parent and if it is ordered to contract for adoption arrangements, must continue to provide foster care and services for the child and report to the court on the adoption plan's implementation.

## **PHOTO-LISTING AND ADOPTION EXCHANGE**

The bill establishes in DCF an electronic photo listing format of children available for adoption in addition to the book DCF is currently required to establish. It requires DCF, within its available appropriations, to establish, maintain, and distribute the book and to contract with a nonprofit agency to establish and maintain the electronic format. It eliminates a requirement that DCF provide the service directly, but it retains a requirement for the commissioner to employ people under her control necessary for it to operate effectively.

It reduces, from three months to 30 days, the time an available child must be in foster or institutional care before his picture is listed. It allows a Superior or probate court judge, as part of a TPR order, to order the child to be photo-listed in less than 30 days if the court finds this is in the child's best interest. But it requires a child age 12 or older to consent to being listed in this situation. The bill requires that whenever a child is registered for listing, it be reported to the court that ordered the TPR.

When no adoptive family is found for a child within 180 days of his parents' rights being terminated, the bill requires DCF to refer him, if it is appropriate, to a national adoption exchange. The commissioner must establish criteria for determining that a referral is not necessary and must monitor the status of children she does not refer.

## **DISCRIMINATION IN ADOPTION PLACEMENT**

The bill prohibits DCF from discriminating in preparing a home study of a prospective adoptive family or in placing a child with a family based on the parents' willingness to be foster parents while the adoption is pending. It requires the information DCF provides to prospective parents to contain a statement that DCF cannot refuse to place a child or delay his placement solely on the basis of differences in

race, color, national origin, or on the willingness to be a foster parent. And it requires DCF to give this information to prospective parents at the beginning of the home study process, rather than at any time during it.

## **MINOR CHANGES**

Current law makes a parent's conviction for sexual assault resulting in the child's conception one of the grounds for terminating a parent's rights to that child. The bill makes it clear that this ground applies whether the conviction was in adult or juvenile court. It also allows a probate court to terminate a parent's rights at any time after such a conviction. The Superior Court already possesses this authority.

The bill permits serving notice of a TPR hearing and providing a copy of the petition to a party's usual residence in addition to the current notice by personal service or, if the party is out-of-state, by certified mail.

## **BACKGROUND**

### ***Legislative History***

The House referred this bill to the Human Services Committee on April 10<sup>th</sup> and to the Appropriations Committee on April 12<sup>th</sup>. Both committees reported it favorably.

## **COMMENT**

### ***Allocation of Dispute Resolution Costs***

The bill appears to bar a court from acting on a petition to enforce or modify an agreement unless the parties share the costs of the required dispute resolution process, but its language is unclear.

## **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 40      Nay 0

## Human Services Committee

Joint Favorable Report

Yea 19      Nay 0

## Appropriations Committee

Joint Favorable Report

Yea 48      Nay 0